

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**STEPHEN McCOLLUM, *et al.*,
Plaintiffs,** §
§
§
v. § **CIVIL ACTION NO. 3:12-CV-02037**
**BRAD LIVINGSTON, *et al.*,
Defendants.** §
§

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE'S UNOPPOSED MOTION TO SEAL
PRIVILEGED DOCUMENTS FOR *IN CAMERA* REVIEW**

Comes now, Defendant, The Texas Department of Criminal Justice, by and through the Attorney General for the State of Texas, and files this Unopposed Motion to Seal Privileged Documents for *In Camera* Review. In support thereof, defendant respectfully offers the following:

**I.
THE PRIVILEGED DOCUMENTS**

Plaintiffs are seeking the Joint Morbidity and Mortality Committee reviews conducted by the Correctional Managed Health Care Committee (“CMHCC”) regarding the deaths of several individuals. The Texas Department of Criminal Justice has asserted that these documents are privileged and has sought a review of the requested documents.

Texas Government Code section 501.150 created the CMHCC to improve access to quality health care while containing cost by maximizing the use of the state’s medical schools. Pursuant to Texas Government Code § 501.150, the CMHCC has established a procedure for monitoring the quality of care delivered by the health care providers. To monitor the quality of care, the CMHCC utilizes several joint committees of its members, including a Joint Morbidity

and Mortality Committee (“Joint M & M committee”), which reviews the circumstances and records of TDCJ offenders’ deaths.

Plaintiffs seek copies of documents related to the CMHCC (Joint M&M Committee), however Texas statutory law prohibits TDCJ from disclosing such medical committee records without a court order. TEX. OCC. CODE § 160.007(a). Accordingly, these records cannot be released unless and until a judge makes a preliminary finding that the medical peer review committee’s proceedings, records, or communications are relevant to a civil rights action brought under 42 U.S.C. § 1983. TEX. OCC. CODE § 160.007(b). Defendants have filed a separate motion asking the Court to make this initial determination of relevance.

II.
CONCLUSION

TDCJ has requested that the court rule on its assertions of privilege with respect to their medical morbidity and mortality reviews records. Accordingly TDCJ asks this Court to seal these documents in order to make the *in camera* review TDCJ has requested.

Respectfully submitted,

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/s/Bruce R. Garcia
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**ATTORNEYS FOR DEFENDANT
TEXAS DEPARTMENT OF CRIMINAL
JUSTICE**

NOTICE OF ELECTRONIC FILING

I, **BRUCE R. GARCIA**, Assistant Attorney General of Texas, certify that I have electronically submitted for filing **Texas Department of Criminal Justice's Unopposed Motion to Seal Privileged Documents for *In Camera* Review** to the Court, on April 14, 2014 in the Northern District of Texas, Dallas Division.

/s/Bruce R. Garcia
BRUCE R. GARCIA
Assistant Attorney General

CERTIFICATE OF CONFERENCE

I, **BRUCE R. GARCIA**, do certify that I spoke with Scott Medlock and he is unopposed to the granting of this Motion for the limited purposes listed in this Motion only. I conferred with all other counsel and they are unopposed to the granting of this motion.

/s/Bruce R. Garcia
BRUCE R. GARCIA
Assistant Attorney General

CERTIFICATE OF SERVICE

I, **BRUCE R. GARCIA**, Assistant Attorney General of Texas, do hereby certify that a true and correct copy of the above and foregoing **Texas Department of Criminal Justice's Unopposed Motion to Seal Privileged Documents for *In Camera* Review** has been served by placing same in the United States Mail on this the 14th day of April, 2014, addressed to:

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/s/Bruce R. Garcia
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